

ESTTA Tracking number: **ESTTA6923**

Filing date: **03/24/2004**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91159448
Party	Defendant Gyrodata, Inc. Gyrodata, Inc. 1682 W. Sam Houston Pkwy N. Houston, TX 77043
Correspondence Address	ROBERT W. STROZIER ROBERT W. STROZIER, P.L.L.C. 2925 BRIARPARK DRIVE SUITE 930 HOUSTON, TX 77042
Submission	Answer
Filer's Name	Robert W. Strozier
Filer's e-mail	rwstroz@flash.net
Signature	/Robert W. Strozier/
Date	03/24/2004
Attachments	ANSWER TO OPPOSITION.pdf (4 pages)

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

SCIENTIFIC DRILLING INTERNATIONAL, INC.)
)
Opposer)
)
v.) Opposition No.: 91159448
)
GYRODATA, INC.)
)
Applicant)

In the Matter of Applications:

Serial No.: 76/481,141
Mark: DROP GRYO
Published in the Office Gazette on: 9/13/00
Class 35

ANSWER TO NOTICE OF OPPOSITION

Applicant, Gyrodata, Inc., a Texas Corporation having 1682 W. Sam Houston Pkwy N., Houston, Texas 77043 denies that Opposer, Scientific Drilling International, Inc., a Texas Corporation having a place of business at 110 Rankin Road, Houston, Texas 77073 will be harmed by the registration of the mark DROP GRYO in International Class 37 for "controlled direction drilling of oil wells." Applicant has used this mark in commerce for over five years, during which time the mark has gained secondary meaning to the benefit of Applicant.

Applicant responds as follows to each paragraph of the Opposition:

1. Applicant admits the allegations of paragraph 1 of the Opposition.
2. Applicant denies the allegations of paragraph 1 and avers that Applicant

submitted evidence of over five years of continuous use of the mark forming a basis for secondary meaning to overcome a merely descriptive rejection set forth by the United States Patent and Trademark Office Examining Attorney, a rejection for which Applicant still does not agree.

3. Applicant admits that Opposer is in oil and gas well drilling business, but denies the other allegations set forth in paragraph 3 of the Opposition.
4. Applicant denies the allegations of paragraph 4 of the Opposition. Applicant filed for registration of the mark and set forth evidence of over five years of continuous use of the mark during prosecution and is, therefore, entitled to exclusive use of the mark.
5. Applicant denies the allegations of paragraph 5 of the Opposition and reasserts its averments in paragraph 4 of the Answer to Notice of Opposition.
6. Applicant denies the allegations of paragraph 6 of the Opposition.
7. Applicant denies the allegations of paragraph 7 of the Opposition and asserts that it has indeed become distinctive due to continuous use of the mark for over a five year period of time.
8. Applicant denies the allegations of paragraph 8 of the Opposition.
9. Applicant denies the allegations of paragraph 9 of the Opposition and avers that simply because a market will be denied the use of a trademark does not mean that the market players are being harmed. Such a proposition can be asserted for the registration for any mark in any market.
10. Applicant denies the allegations of paragraph 10 of the Opposition and avers that the Examining Attorney of the United States Patent and Trademark Office overseeing the prosecution of this mark passed on the sufficiency of Applicant's showing of use of this mark.
11. Applicant denies the allegations of paragraph 11 of the Opposition in that

EXPRESS MAIL LABEL NO.: EV 316 883 783 US

Applicant did not continue with the count of trademark infringement, because on information and belief, Applicant thought the Opposer would or had stopped using the mark.

12. Applicant denies the allegations of paragraph 12 of the Opposition and reasserts the averment of paragraph 11 of the Answer to Notice of Opposition.
13. Applicant denies the allegations of paragraph 13 of the Opposition.
14. Applicant neither admits nor denies the allegations of paragraph 14 of the Opposition.

WHEREFORE, Applicant prays that this opposition be dismissed with prejudice and that Application Serial No. 76/131,014 be allowed to mature to a registered mark on the primary register.

Respectfully submitted,



Robert W. Strozier
P.O. Box 429
Bellaire, TX 77402-0429
Tel: 713.977.7000
Fax: 713.229.7956

Attorney for Applicant
Gyrodata, Inc.

EXPRESS MAIL, LABEL NO.: EV 316 883 783 US

CERTIFICATE OF SERVICE

Applicant hereby evidences service of its Answer to Notice of Opposition to James R. Robinson of Baker Botts LLP via facsimile at 713.229.7956 on February 17, 2004.

March 24,

Respectfully submitted,



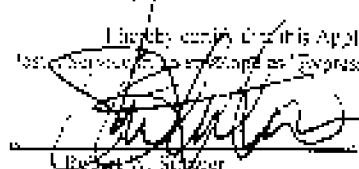
Robert W. Strozier
P.O. Box 429
Bellaire, TX 77402-0429
Tel: 713.977.7000
Fax: 713.229.7956

Attorney for Applicant
Cyrodata, Inc.

CERTIFICATE OF MAILING

EV 316 883 783 US Express mail no.	CERTIFICATION UNDER 37 C.F.R. § 1.10	March 24, 2004 Date of Deposit
I hereby certify that the Application and the documents referred to as enclosed thereto are being deposited with the United States Postal Service in an envelope as "Express Mail Post Office" to "Addressed" addressed to: Commissioner for Trademarks MS TTAB&TTEB 2950 Crystal Drive Arlington, VA 22202-3837		
 Robert W. Strozier		March 24, 2004 Date of Signature

CERTIFICATE OF FILING ELECTRONICALLY

	CERTIFICATION UNDER ELECTRONICALLY	March 24, 2004 Date of Deposit
I hereby certify that this Application and the documents referred to as enclosed herein are being deposited with the United States Postal Service in an envelope as "Express Mail Post Office" to "Addressed" addressed to: Commissioner for Trademarks TESS		
 Robert W. Strozier		March 24, 2004 Date of Signature